

So Ordered.

Dated: September 25th, 2023



*Frederick P. Corbit*

Frederick P. Corbit  
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

In re:

No.: **23-00493-FPC11**

**JAMES R. and ELAINE A. MATTHEWS,**  
husband and wife,

Chapter 11

Debtors.

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW REGARDING  
CONFIRMATION OF DEBTORS' FIRST  
AMENDED CHAPTER 11  
SUBCHAPTER V PLAN OF  
REORGANIZATION**

**THIS MATTER** came on for hearing on September 12, 2023 for confirmation of Debtors' First Amended Chapter 11 Subchapter V Plan of Reorganization filed on July 11, 2023 [ECF No. 105] (the "Plan"). Southwell & O'Rourke, P.S. appearing for Debtors. The court having reviewed the Debtors' Plan and the Declaration of James R. Matthews, and having heard the arguments of counsel, makes the following FINDINGS OF FACT AND CONCLUSIONS OF LAW,

Findings of Fact and Conclusions of Law -1

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1           1.       Debtors filed this Chapter 11 Subchapter V proceeding on April 25, 2023  
2 [ECF No. 1].

3           2.       Debtors filed their Plan on July 11, 2023 [ECF No. 105]. The Plan contains  
4 a brief history of the business operations of the Debtors, a liquidation analysis, and  
5 projections with respect to the ability of the Debtors to make Plan payments. The Plan  
6 provides for the submission of future income to the supervision and control of the  
7 trustee as is necessary for the execution of the Plan. As such, the Plan complies with 11  
8 U.S.C. § 1190.

9           3.       Debtors gave proper notice of their Plan and the Hearing on Confirmation  
10 of the Plan to creditors and parties in interest as required by FRBP 2002, LBR 2002-1,  
11 and LBR 3018-1, as well as other applicable provisions of the bankruptcy code and the  
12 Federal Rules of Bankruptcy Procedure by properly serving the Plan, List of Classifying  
13 Claims and Interest, Ballot, and notice. Proof of service of such was filed with the court  
14 on July 25, 23 [ECF No. 116].

15           4.       The hearing on confirmation after notice to creditors was held on  
16 September 12, 2023.

17           5.       The following classes of claims are impaired under the plan:

18                   Class 2: Unsecured Taxes

19                   Class 3: Spokane County

20                   Class 4: Freedom Mortgage Corporation

21                   Class 5: Toyota Motor Credit Corporation d/b/a Lexus Financial Services

22                   Class 6: CIT Bank, N.A.

23 Findings of Fact and Conclusions of Law -2

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Class 7: SOAR Behavior Services, LLC

Class 8: SOAR Behavior Services Idaho, LLC and SOAR Behavior Services Nevada, LLC

Class 9: Wage Claimants

Class 10: General Unsecured Creditors

Class 11: Equity Security Holders

6. Debtors properly filed a Ballot Summary on August 31, 2023 [ECF No. 169] (the "Ballot Summary"). The Ballot Summary indicates that all Classes voted in favor of the Plan. There were no Classes that voted against the Plan.

7. No ballots other than those identified in the Ballot Summary have been received by Debtors.

8. Any payment made or to be made by the Debtors for services or for costs and expenses in or in connection with the case, or in connection with the Plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable. Any and all payments for professional services, including authorization required by 11 U.S.C. §327 and 330, shall remain subject to bankruptcy court approval notwithstanding confirmation of the Plan.

9. Debtors shall continue the operation of Debtors' Business, defined in Art. 9.1 of Plan, after confirmation of the Plan. The net proceeds and income from Debtor's business operations shall be used by Debtors to pay creditors as provided by the Plan.

10. The Debtors' Plan contains a Liquidation Analysis, which in a liquidation scenario, projects that all creditors shall not be paid in full. As such, the creditors who are impaired by the plan, and who did not vote for the plan, will receive not less than the amount they would receive in a liquidation, as required by 11 U.S.C. §1129(a)(7).

Findings of Fact and Conclusions of Law -3

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1           11. No government regulatory commission or agency is required to approve  
2 the Plan or terms of the Plan.

3           12. Debtors' Plan satisfies the requirements of 11 U.S.C. §1129(a)(7) in that  
4 each holder of a claim or interest has accepted the Plan or will receive or retain under  
5 the Plan property of a value, as of the effective date of the Plan, that is not less than the  
6 amount that such holder would receive or retain if Debtor was liquidated under Chapter  
7 7 of the Bankruptcy Code on such date.

8           13. No 11 U.S.C. §1111(b) elections have been made by any secured  
9 creditor.

10           14. With respect to the class of claims that did not vote for the Plan, the Plan  
11 does not discriminate unfairly, and is fair and equitable, with respect to such class of  
12 claims as required by 11 U.S.C. §§1129(b)(1) and 1191(b). As stated above, the Plan  
13 calls for the Debtors' payment of its disposable income to creditors over a period of 3  
14 years. Furthermore, the Debtors have provided a Plan Budget, Monthly Operating  
15 Reports and the Declaration of Debtor James Matthews, which demonstrate the  
16 Debtors' ability to make their Plan payments.

17           15. Administrative priority claims described by 11 U.S.C. §503(b) and 11  
18 U.S.C. §507(A)(2) are provided for as required by 11 U.S.C. §1129(a)(9).

19           16. The Plan has been accepted in writing by at least one non-insider class of  
20 impaired creditors as required by 11 U.S.C. §1129(a)(10). The provisions of Chapter  
21 11, Title 11 of the United States Code have been complied with, and the Plan complies  
22 with all provisions of Title 11 of the United States Code as well as other applicable law.

23           17. Confirmation of the Plan is not likely to be followed by liquidation, or the  
24 need for further financial reorganization of Debtors.

25 Findings of Fact and Conclusions of Law -4

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1           18.    This was a voluntary Chapter 11 filing by the Debtors. As such, no fees  
2 are due to any involuntary creditors.

3           19.    The Debtors do not owe child support or domestic support obligations.

4           20.    The Debtors have no allowable unpaid wage claims nor claims for  
5 commissions that were directly incurred by Debtors.

6           21.    The Debtors do not owe claims for non-payment to any employee benefit  
7 plan.

8           22.    The Debtors do not operate a grain storage facility.

9           23.    The Debtors do not owe a debt to fishermen.

10          24.    There are no claims made by any creditors for pre-petition deposits for  
11 purchase or lease of products for any creditor's personal family or household use.

12          25.    The Debtors do not owe the bankruptcy court for any fees.

13          26.    Debtors are not paying retiree benefits; therefore, no retiree benefits will  
14 be affected by the Plan.

15          27.    Debtors' Plan should be confirmed. The provisions of Chapter 11 have  
16 been complied with, and the Plan has been proposed in good faith and not by any  
17 means forbidden by law.

18          28.    The requirements for confirmation of the Plan imposed by the Bankruptcy  
19 Code, Federal Rules of Bankruptcy Procedure and other applicable law, including the  
20 requirements of 11 U.S.C. § 1129, have been met.

21          29.    The effective date of the Plan will be the first business day following the  
22 date on which the confirmation becomes a final non-appealable order. Debtors are  
23 authorized and directed to begin consummation of the Plan on the effective date.

24          30.    The Plan is confirmed with the following changes:  
25

Findings of Fact and Conclusions of Law -5

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1 a. Notwithstanding any provision of Plan, Debtors shall cure the pre-  
2 petition arrears to Freedom Mortgage Corporation ("Freedom") on or before  
3 September 12, 2023 and the creditor rights of Freedom shall remain entirely  
4 unaltered under the plan, and Freedom shall not be required to issue any plan  
5 notice of default in the event of default but may proceed with its remedies under  
6 its note, security instrument, and applicable non-bankruptcy law.

7 b. The Plan shall be revised/corrected. At page 26, beginning at line  
8 6, the words, "to the extent Class 8 has disposable income" is deleted and in its  
9 place the following shall be inserted, "shall be paid in part from the disposable  
10 income of Class 8."

11 c. The seventeen (17) contracts listed on Exhibit 1 to Stipulation  
12 between Debtors and Class 6 [ECF 159] are hereby assumed.

13 d. The claim of State of Washington, Department of Labor &  
14 Industries, Claim No. 2, is allowed and shall be paid per the terms of the Plan.

15 ///END OF ORDER///

16 PRESENTED BY:

17 SOUTHWELL & O'ROURKE, P.S.

18  
19 BY: /s/ Dan O'Rourke  
20 DAN O'ROURKE, WSBA #4911  
Attorney for Debtors

21  
22  
23  
24  
25 Findings of Fact and Conclusions of Law -6

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